

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

IN RE FOREIGN EXCHANGE  
BENCHMARK RATES ANTITRUST  
LITIGATION

No. 1:13-cv-07789-LGS

**[PROPOSED] ORDER APPROVING REQUESTS FOR EXCLUSION  
FROM THE CERTIFIED LITIGATION CLASS**

WHEREAS, the Action<sup>1</sup> is pending before this Court;

WHEREAS, on September 3, 2019, this Court issued an order pursuant to Fed. R. Civ. P. 23(c)(4)(A) certifying a litigation class (the “Certified Litigation Class”) with respect to two issues: “(1) whether there is a conspiracy to widen spreads in the spot market, and (2) whether the Credit Suisse Defendants’ participated in the conspiracy” (the “Threshold Issues”), Opinion & Order, ECF No. 1331 at 19;

WHEREAS, on November 19, 2020, this Court entered an order approving the form and manner of notice of the Certified Litigation Class, ECF No. 1546;

WHEREAS, on December 18, 2020, Epiq Class Action & Claims Solutions, Inc. (“Epiq”), Rust Consulting, Inc. (“Rust”), and certain Settling Defendants (collectively, the “Notice Agents”) began effectuating the notice to Litigation Class Members,<sup>2</sup> advising Class Members of, among other things, the February 17, 2021, deadline to exclude themselves from the Litigation Class. Epiq, Rust, and certain Settling Defendants distributed notice by email where possible, and by postcard when an email address was not available. The email and postcard directed potential class members to the detailed notice on the FX litigation website maintained by Epiq;

---

<sup>1</sup> The “Action” means *In re Foreign Exchange Benchmark Rates Antitrust Litigation*, No. 1:13-cv-07789-LGS, which is currently pending in the United States District Court for the Southern District of New York, and includes all actions filed in or transferred to the U.S. District Court for the Southern District of New York, and consolidated thereunder, and all actions that may be so transferred and consolidated in the future, including: *Taylor v. Bank of Am. Corp.*, No. 15 Civ. 1350; *Sterk v. Bank of Am. Corp.*, No. 15 Civ. 2705; *Bakizada v. Bank of Am. Corp.*, No. 15 Civ. 4230; *Teel v. Bank of Am. Corp.*, No. 15 Civ. 4436; and *Robert Charles Class A, L.P. v. Bank of Am. Corp.*, No. 15 Civ. 4926.

<sup>2</sup> A Litigation Class Member is any person who, between December 1, 2007 and December 31, 2013, entered into a total of 10 or more FX spot, forward, and/or swap trades directly with one or more Defendants in the 52 Affected Currency Pairs via voice or on a single-bank platform, where Defendants provided liquidity and such persons were either domiciled in the United States or its territories, or if domiciled outside the United States or its territories, traded in the United States or its territories.

WHEREAS, on January 17, 2021, this Court entered an order approving an extension to the deadline for requests for exclusion to April 27, 2021, for those Litigation Class Members that UBS sent notice to, ECF No. 1557;

WHEREAS, the Detailed Notice stated that a valid and timely Request for Exclusion must be: (a) in writing; (b) signed by the Person (defined as the individual or entity holding the claim) or his, her, or its authorized representative; (c) state the name, address and phone number of that Person; and (d) include a signed statement that “I/we hereby request that I/we be excluded from the Litigation Class in the *In re Foreign Exchange Benchmark Rates Antitrust Litigation*” or the substantive equivalent. The Detailed Notice also stated that a request must be postmarked by February 17, 2021, or in the case of UBS Notice, the April 27, 2021, and mailed to the Notice Administrator at: In re Foreign Exchange Benchmark Rates Antitrust Litigation, c/o Epiq Global, P.O. Box 10239, Dublin, OH 43017-5739.

NOW, THEREFORE, IT IS HEREBY ORDERED AND FOUND:

1. All terms in initial capitalization used in this Order shall have the same meanings as defined herein.
2. The Court approves the valid and timely requests for exclusion from the Certified Litigation Class, attached as Exhibits C and C-1, respectively, to the Declaration of Charles Marr in Support of a Motion for an Order Approving Requests for Exclusion from the Certified Litigation Class (“Declaration of Charles Marr”).
3. The Court finds that excusable but untimely requests for exclusion have shown excusable neglect due to widespread postal delays resulting from COVID-19 related disruptions and hardships, which resulted in these Litigation Class Members being unable to meet the February 17, 2021 (or April 27, 2021) deadline. Therefore, the Court approves all untimely but otherwise

valid requests for exclusion from the Certified Litigation Class attached as Exhibit D to the Declaration of Charles Marr.

4. The Court finds that the requests for exclusion received by email have shown excusable neglect due to postal delays and courier delivery issues, which resulted in these Litigation Class Members being unable to comply with written requirement of the Detailed Notice and the Summary Notice. Each of these Litigation Class Members sent Epiq, the Notice Administrator, an email indicating their intention to opt out of the Certified Litigation Class, and these emails met all other requirements of a valid opt out. Therefore, the Court approves all emailed requests for exclusion that are otherwise valid from the Certified Litigation Class attached as Exhibit E to the Declaration of Charles Marr.

5. The Court rejects all invalid requests for exclusion from the Certified Litigation Class attached as Exhibit F to the Declaration of Charles Marr. The Litigation Class Members listed in Exhibit F will be bound by any determinations of this Court in favor of or against the Credit Suisse Defendants on the Threshold Issues to be tried in this Action.

IT IS SO ORDERED.

DATED: \_\_\_\_\_, 2021

---

HON. LORNA G. SCHOFIELD  
UNITED STATES DISTRICT JUDGE